

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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**DAVID VANN,**

Plaintiffs,  
v.

**REPLY DECLARATION  
IN SUPPORT OF  
MOTION TO DISMISS  
Civ. No.: 18-cv-06464**

**CITY OF ROCHESTER, POLICE OFFICER  
MATTHER DRAKE, POLICE OFFICER  
STEVEN MITCHELL, POLICE OFFICER  
JEFFEREY KESTER, POLICE OFFICER  
CHRISTOPHER BARBER, POLICE OFFICER  
DAVID E. KEPHART, INVESTIGATOR TOMESHA  
ANGELO, TECHNICIAN STEPHANIE MINTZ,  
SERGEANT DANIEL J. ZIMMERMAN,  
“JOHN DOES 1-6” and POLICE OFFICERS  
“JOHN DOES 7-12”, et al.**

Defendants.

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JOHN M. CAMPOLIETO, Esq., declares and says:

1. I am an attorney with the City of Rochester Corporation Counsel’s Office, attorneys for Defendants. I am admitted to practice law before the courts of the State of New York and in the United States District Court, Western District of New York.
2. I submit this Reply Declaration in support of Defendants’ F.R.C.P. Rule 12(b)(6), 12(e) and 12(f) Motion for Partial Dismissal for Failure to State a Claim. The information set forth herein is based upon my personal knowledge, a review of the proceedings in this action, and a review of relevant case law.
3. Annexed hereto as Exhibit A is a copy of the Letter sent by the Plaintiff’s Attorney in this matter, filed with the Court’s ECF system on December 5, 2018.
4. This motion seeks alternative relief. The City seeks dismissal of the entire

Complaint and Demand for a More Definite Statement under Rule 12(e). Partial Dismissal of certain causes of action under Rule 12(b)(6). Striking of the entire Complaint or sections of the Complaint alleging Fraud under Rule 12(f) and Rule 9(b) and striking extraneous media cited to and incorporated by reference into the Complaint under Rule 12(f).

Dated: December 5, 2018

TIMOTHY R. CURTIN,  
CORPORATION COUNSEL

/s/ John M. Campolieto

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